

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.837 OF 2002**

Hausalaprasad Shrinath Shukla

...Appellant

Vs.

Municipal Corporation of
Greater Bombay and ors.

...Respondents

Mr.R.A.Thorat for the Appellant

Ms Geeta Joglekar for the Respondent No.1-Corporation.

**CORAM: A.S.OKA, J.
DATED: APRIL 25,2005.**

P.C.:

1. Admit. Respondents waive service. Taken up for hearing forthwith. The Appeal is by the original Plaintiff taking exception to the Judgment and Order dated 17th August 2002 passed by the learned Judge of the City Civil Court, Bombay. By the impugned Judgment and Order, Notice of Motion taken out by the Appellant-Plaintiff for temporary injunction has been dismissed.

2. The challenge in the suit filed by the Appellant-Plaintiff is to the notice dated 24th May 2000 under Section 351 of Mumbai Municipal Corporation Act, 1888 and the order dated 1st July 2000 passed by the Ward Officer.

3. Admittedly, the Respondents have not filed reply to the Notice of Motion. Shri Thorat, learned Counsel appearing for the Appellant-Plaintiff states that till today written statement is not filed by the Respondents.

4. Perusal of the record of the Appeal shows that on 1st October 2002 in Civil Application No.1073 of 2002 this Court directed the Respondents to maintain status quo in relation

to the suit structure. The said ad-interim order passed by this Court is in operation for last more than 3 years.

5. Perusal of the order passed by the Ward Officer shows that the documents which are relied upon by the Appellant-Plaintiff are not specifically considered. Ad-interim order passed by this Court is operating for last more than 3 years. The Notice of Motion was taken out in the year 2000 and till the date of passing of impugned Order the suit structure was protected by an ad-interim order. As no reply is filed by the Respondents to the Notice of Motion, it will be unjust to disturb the interim arrangement which is operating for last more than 5 years. Hence interest of justice will be served if ad-interim order is continued till the final disposal of the suit and hearing of the suit is expedited.

6. Hence, I pass the following order :

- i) Appeal from Order is disposed of by directing that ad-interim order passed by this Court in Civil Application No.1073 of 2002 on 1st October 2002 will continue to operate as interim order till the final disposal of the suit. It is made clear that the Appellant-Plaintiff will also maintain status quo in all respects in respect of the suit structure.
- ii) Hearing of the suit is expedited.
- iii) All contentions on merits of the suit are expressly kept open.
- iv) Parties to act upon an authenticated copy of this order.

Judge.